



## OFFICE OF PERSONNEL MANAGEMENT

[Docket ID: OPM-2026-0100]

### Confidential Government Information Nondisclosure Agreement

**AGENCY:** Office of Personnel Management.

**ACTION:** Notice with request for comment.

**SUMMARY:** The Office of Personnel Management (OPM) requests comment on a draft nondisclosure agreement (NDA) for use by Federal agencies for both new and existing employees. The form is intended to document Federal employees' acknowledgment of, and agreement to comply with, current legal obligations to safeguard non-public, confidential, or proprietary information, created or obtained through their official duties, while expressly preserving the right to make disclosures authorized by law. OPM believes that a governmentwide NDA form will promote consistency across Government, better protect confidential information, and better inform Federal employees of their rights and obligations regarding confidential information.

**DATES:** Comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit comments using the Federal eRulemaking Portal at <https://www.regulations.gov>. Follow the instructions for sending comments.

The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing at <https://www.regulations.gov> without change, and including any personal identifiers or contact information. Before finalizing the NDA, OPM will consider all comments received on or before the closing date for comments. OPM may make changes to the NDA after considering the comments received.

**FOR FURTHER INFORMATION CONTACT:** Joe Knouff, Suitability Director, (202) 599-0090. Email: [SuitEA@opm.gov](mailto:SuitEA@opm.gov), with Attn: NDA Information in the subject line.

## **SUPPLEMENTARY INFORMATION:**

### **Background and Authority**

Congress has long authorized the President to ensure that individuals employed in the Federal civil service are suitable for Federal employment. Since 1871, Congress has empowered the President to prescribe regulations governing admission into the civil service, to ascertain the fitness and character of applicants, and to establish standards for the conduct of Federal employees in order to promote the efficiency of the service. Today, these authorities are reflected in 5 U.S.C. 3301 and 7301, which authorize the President to prescribe regulations for admission to the civil service, to assess applicant fitness and character, and to regulate employee conduct in the executive branch.

Historically, the President has delegated this authority to the Office of Personnel Management (OPM) and its predecessor, the Civil Service Commission, including responsibility for establishing suitability standards and for conducting suitability investigations related to appointment and continued Federal employment. OPM exercises this authority through regulations governing suitability and fitness determinations, which are intended to identify character or conduct that may adversely affect the integrity or efficiency of the service.

In addition to suitability standards, Federal employees are subject to longstanding legal requirements to safeguard nonpublic information obtained through their official duties. These obligations arise under multiple authorities, including the Standards of Ethical Conduct for Employees of the Executive Branch (5 CFR part 2635), which prohibit the unauthorized disclosure of nonpublic information, implementing regulations of the Federal Records Act at 36 CFR 1222.24(a)(6), as well as statutes such as the Privacy Act of 1974.<sup>1</sup> Together, these requirements reflect the expectation that Federal employees will handle Federal records and other non-public, confidential, or proprietary information responsibly and refrain from disclosing

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<sup>1</sup> These obligations include prohibitions against using nonpublic information to further one's own private interests, as well as governing the collection, maintenance, use, and dissemination of information about individuals maintained in systems of record by federal agencies. See 5 CFR 2635 and the Privacy Act of 1974 (5 U.S.C. 552a).

such information without authorization or through unauthorized channels. OPM is defining “Confidential Government Information” for purposes of the NDA as all non-public, confidential, or proprietary information, to include, but not be limited to, information relating to internal agency operations, personnel matters, procurement processes, or any sensitive, pre-decisional or deliberative material that is not currently publicly available and should not be disclosed under applicable law.

Federal employees do not have discretion to disclose Confidential Government Information outside of narrow circumstances prescribed by relevant authorities and implemented by procedures which may differ by agency.<sup>2</sup> Unauthorized disclosures of Confidential Government Information disrupt agency operations and erode public trust. In recent months, unauthorized disclosures have included internal government materials not intended for public release, such as pre-decisional documents and interagency comments exchanged during internal coordination processes.<sup>3</sup> There have been several recent instances in which internal agency communications related to rulemaking and policy development were disclosed without authorization.<sup>4</sup> Such disclosures risk chilling candid interagency feedback, disrupting orderly decision-making, and weakening trust within and among Federal agencies.

These are not the only types of recent incidents underscoring the need for an NDA. In 2025, several Federal employees in the Federal Bureau of Investigation and Department of Homeland Security (DHS) engaged in unauthorized disclosure on planned immigration enforcement actions—disclosures that impeded enforcement of Federal law and put the lives of

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<sup>2</sup> Such circumstances would include disclosures to Congress, an Inspector General, or other designated individuals that are protected under the Whistleblower Protection Act, 5 U.S.C. § 2302(b) (i.e., a violation of any law, rule, or regulation; mismanagement, a gross waste of funds, or an abuse of authority; or a substantial and specific danger to public health or safety).

<sup>3</sup> Wagner, Erich and Eric Katz, “Agencies internally pan OPM’s bid to overhaul federal performance management,” *Government Executive* (Jan. 29, 2026), <https://www.govexec.com/workforce/2026/01/agencies-internally-pan-opms-bid-overhaul-federal-performance-management/411051/>.

<sup>4</sup> Friedman, Drew, “OPM seeks broader authority to fire federal employees, draft regulations show,” *Federal News Network* (Mar. 26, 2025), <https://federalnewsnetwork.com/workforce/2025/03/opm-seeks-broader-authority-to-fire-federal-employees-draft-regulations-show/>.

Federal agents in danger.<sup>5</sup> In early 2026, the New York Times and Washington Post received unauthorized disclosures from Federal employees divulging the secret U.S. raid on Venezuela prior to it occurring.<sup>6</sup> These leaks put the lives of members of the armed forces at risk, leading news organizations to delay “publishing what they knew to avoid endangering US troops.”<sup>7</sup> Also this year, the personal information of approximately 4,500 ICE employees—including nearly 2,000 employees working in frontline enforcement—was disclosed by a Federal employee, including names, addresses, email addresses, phone numbers, and job titles.<sup>8</sup> This leak jeopardized the safety of the agents.<sup>9</sup>

The problem is so widespread that the Supreme Court itself has instituted the use of nondisclosure agreements to attempt to dissuade staff from the harmful practice of disclosing Confidential Government Information and as a means to hold individuals accountable for such behavior.<sup>10</sup> The Supreme Court took this step after a shocking incident where an individual, likely a law clerk, disclosed (without authorization) a copy of a draft decision in a controversial abortion case to a reporter.<sup>11</sup> In the weeks and months that followed, Supreme Court justices

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<sup>5</sup> Pritchett, Elizabeth, “DHS says it ‘can, should and will’ administer polygraph exams amid ICE raid location leaks,” Fox News (Feb. 19, 2025), <https://www.foxnews.com/us/dhs-says-can-should-will-administer-polygraph-exams-amid-ice-raid-location-leaks>; Ainsley, Julia, and Jonathan Allen, “DHS has begun performing polygraph tests on employees to find leakers,” NBC News (Mar. 8, 2025), <https://www.nbcnews.com/politics/national-security/dhs-begun-performing-polygraph-tests-employees-find-leakers-rcna195485>.

<sup>6</sup> Tani, Max, and Shelby Talcott, “News organizations held off on reporting Venezuela raid,” Semafor (Jan. 3, 2026), <https://www.semafor.com/article/01/03/2026/new-york-times-washington-post-held-off-on-reporting-venezuela-raid>.

<sup>7</sup> Id.

<sup>8</sup> Putnam, Joanna, “‘ICE List’ doxxing site alleges DHS whistleblower leaked identities of 4,500 agents” Police1 (Jan. 14, 2026), <https://www.police1.com/officer-safety/ice-list-doxxing-site-alleges-dhs-whistleblower-leaked-identities-of-4-500-agents>.

<sup>9</sup> U.S. Department of Homeland Security, ICE Officers Face an 8,000% Increase in Death Threats Against Them and Their Families (press release) (Jan. 26, 2026), <https://www.dhs.gov/news/2026/01/26/ice-officers-face-8000-increase-death-threats-against-them-and-their-families>; Carnahan, Ashley, “Self-identified Antifa member arrested after allegedly threatening ICE agents, DOJ says” Fox News (Feb. 5, 2026), <https://www.foxnews.com/us/self-identified-antifa-member-arrested-after-allegedly-threatening-ice-agents-doj-says>.

<sup>10</sup> Kantor, Jodi, “How the Supreme Court Secretly Made Itself Even More Secretive,” The New York Times, (Feb. 2, 2026), <https://www.nytimes.com/2026/02/02/us/supreme-court-nondisclosure-agreements.html>.

<sup>11</sup> Gerstein, Josh and Alexander Ward, “Supreme Court has Voted to Overturn Abortion Rights, Draft Opinion Shows,” Politico (May 3, 2022), <https://www.politico.com/news/2022/05/02/supreme-court-abortion-draft-opinion-00029473>. OPM notes that while the identity of the individual who leaked the information is unknown, the only individuals who had access to the draft were justices and their clerks, and it is most unlikely that a justice leaked the document.

were subject to threats and harassment as a result of the leak,<sup>12</sup> and one was subject to an assassination plot. A would-be assassin traveled to the house of Justice Brett Kavanaugh, armed with a gun and burglary tools, with the intention of breaking into the Justice's house and killing him.<sup>13</sup> The would-be assassin was specifically motivated by the release of the leaked draft decision.<sup>14</sup>

On February 11, 2025, the President issued Executive Order 14210, *Implementing the President's "Department of Government Efficiency" Workforce Optimization Initiative*. Among other actions, the Executive Order directed OPM to revise its suitability regulations to address integrity-related conduct, including refusal to certify compliance with nondisclosure obligations. Consistent with that directive, OPM published a proposed rule titled *Suitability and Fitness* on June 3, 2025 (90 FR 23467). The proposed rule would amend 5 CFR part 731 to emphasize the impact of noncompliance with nondisclosure obligations in suitability and fitness determinations.

In parallel with this regulatory effort, OPM has developed a proposed NDA for use by Federal agencies that elect to document employees' acknowledgment of, and agreement to comply with, existing non-disclosure obligations. The proposed NDA does not create new substantive restrictions on employee speech or disclosure rights. Rather, it is designed to provide agencies with a standardized mechanism for employees to acknowledge and agree to comply with obligations that already exist under law and regulation, while expressly preserving rights to make disclosures authorized by law, including protected whistleblower disclosures. The NDA

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<sup>12</sup> Letter from State Attorneys General to Merrick Garland, *Recent Efforts To Intimidate Supreme Court Justices* (May 11, 2022), available at [https://content.govdelivery.com/attachments/OKAG/2022/05/12/file\\_attachments/2157362/Letter%20re%20SCT%20Protests.pdf](https://content.govdelivery.com/attachments/OKAG/2022/05/12/file_attachments/2157362/Letter%20re%20SCT%20Protests.pdf); Carolyn Vakil, *GOP governors, state AGs urge Garland to enforce federal law to protect Supreme Court justices* (May 12, 2022), available at <https://thehill.com/regulation/court-battles/3486441-gop-governors-state-ags-urge-garland-to-enforce-federal-law-to-protect-supreme-court-justices/>

<sup>13</sup> McFarlane, Scott and Melissa Quinn, "Man who tried to assassinate Kavanaugh in 2022 wanted to kill 3 justices, prosecutors say," *CBS News* (Sept. 19, 2025), <https://www.cbsnews.com/news/nicholas-roske-brett-kavanaugh-sentencing/>.

<sup>14</sup> U.S. Department of Justice, *Nicholas Roske Sentenced to Over Eight Years in Prison for Attempted Murder of Supreme Court Justice in Maryland* (press release) (Oct. 3, 2025), <https://www.justice.gov/opa/pr/nicholas-roske-sentenced-over-eight-years-prison-attempted-murder-supreme-court-justice>.

also does not replace or nullify any other nondisclosure agreements an individual may be required to sign in connection with his or her position.

OPM believes that a standard NDA form will promote consistency across Government, better protect confidential information, and better inform Federal employees of their rights and obligations regarding confidential information. OPM expects that the proposed NDA will be an Optional Form, meaning that Federal agencies would have discretion whether to use the NDA.

Should agencies elect to use the NDA, it would be administered to newly hired employees as part of the onboarding process and to current Federal employees. In addition, for new hires, a requirement to sign the NDA would be advertised as part of a job opening announcement for the vacancy. OPM expects that a new agreement would be executed if there is an agency change or the employee has a break in service; however, OPM would not expect an employee to sign a new agreement for every position change within an agency. The form would serve as a certification that the employee understands and agrees to comply with applicable nondisclosure requirements associated with Federal service.

This form would also become part of an employee's Electronic Official Personnel Folder (eOPF) which contains records and documents related to Federal civilian employment and follows an employee throughout service with any federal agency. It is maintained in the eOPF as required by updates to OPM's Operating Manual, "The Guide to Personnel Recordkeeping."<sup>15</sup> OPM's Govt-1 system of records notice currently lists, among other things, the "contents of the OPF as specified in OPM's Operating Manual, "The Guide to Personnel Recordkeeping" (GPR) as a category of record that is covered in the system. Thus Govt-1 is intended to cover everything in the OPF that is required by the GPR, and OPM does not plan to modify it to accommodate the NDA.

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<sup>15</sup> OPM's "Guide to Personnel Recordkeeping" is available at <https://www.opm.gov/policy-data-oversight/data-analysis-documentation/personnel-documentation/#url=Personnel-Recordkeeping>.

OPM is publishing the proposed form to provide public notice and allow for public comment to promote transparency, encourage consistency across agencies, and provide interested parties an opportunity to comment on the form's content, clarity, and potential implementation considerations.

The NDA is not subject to the Paperwork Reduction Act, as amended (44 U.S.C. chapter 35). *See* 5 CFR 1320.3(c)(4), which excludes from the definition of a regulated "collection of information" a collection from current employees of the Federal government when acting within the scope of their employment.

### **Request for Comment**

OPM welcomes public comments on all aspects of the draft NDA, including whether the Privacy Act statement's description of the authority, principal purposes, routine uses, and effects provide sufficient notice to employees. The draft NDA is available in the docket for this notice on regulations.gov. See <https://www.regulations.gov/document/OPM-2026-0100-0003>. OPM specifically requests comment on the following issues.

1. What scope of information should be covered by the NDA? Should it cover only unclassified information? How do you understand the terms *confidential* and *confidentiality* in the context of this NDA? What customization of the NDA, if any, may be necessary for agencies to ensure it covers the appropriate information?

2. Does the NDA clearly communicate the types of information that would be subject to non-disclosure requirements? If not, how could OPM better describe what information can or cannot be disclosed to ensure employees have appropriate notice of their responsibilities?

3. Are there other statutes to which OPM should cite in Appendix A of the NDA when describing the nondisclosure requirements applicable to individuals working for or on behalf of the Federal government?

4. Do you have suggestions regarding the layout or formatting of the NDA?

5. Does the Privacy Act statement in the NDA provide sufficient notice to employees of the authorities, principal purposes, routine uses, and effects of the form?

6. Does the OPM/GOVT-1 system of records notice provide sufficient notice that the government-wide system of records would maintain records related to the signing of, or failure to sign, the NDA?

7. What are the appropriate actions, if any, for agencies to consider taking if existing employees choose not to sign the NDA?

8. What are the appropriate actions, if any, for agencies to consider taking if new employees choose not to sign the NDA?

9. Does the NDA clearly communicate the potential consequences of refusal to sign the form for both existing and new employees, along with whether signing the form is voluntary or mandatory?

10. What else should OPM consider with regard to the NDA??

OPM will consider comments received before finalizing the NDA. OPM plans to submit the form to the General Services Administration (GSA) for designation as a GSA Form.

### **Signing Statement**

The Director of OPM, Scott Kupor, reviewed and approved this document and has authorized the undersigned to electronically sign and submit this document to the Office of the Federal Register for publication.

Office of Personnel Management.

**Jerson Matias,**

*Federal Register Liaison.*